

**REMARKS**

Claims 1 and 3-66 are pending in this application, claims 31-55 having been withdrawn. By this Amendment, claims 1, 31, 56, 65 and 66 are amended. Support for the amendments to claims 1, 31, 56, 65 and 66 can be found at least at Figures 6-9, and the corresponding description in the specification. No new matter is added.

The courtesies extended to Applicants' representative by Examiner Bowers at the interview held December 2, 2009, are appreciated. The reasons presented at the interview as warranting favorable action are incorporated into the remarks below, which constitute Applicants' record of the interview.

**I. The Claims Define Patentable Subject Matter**

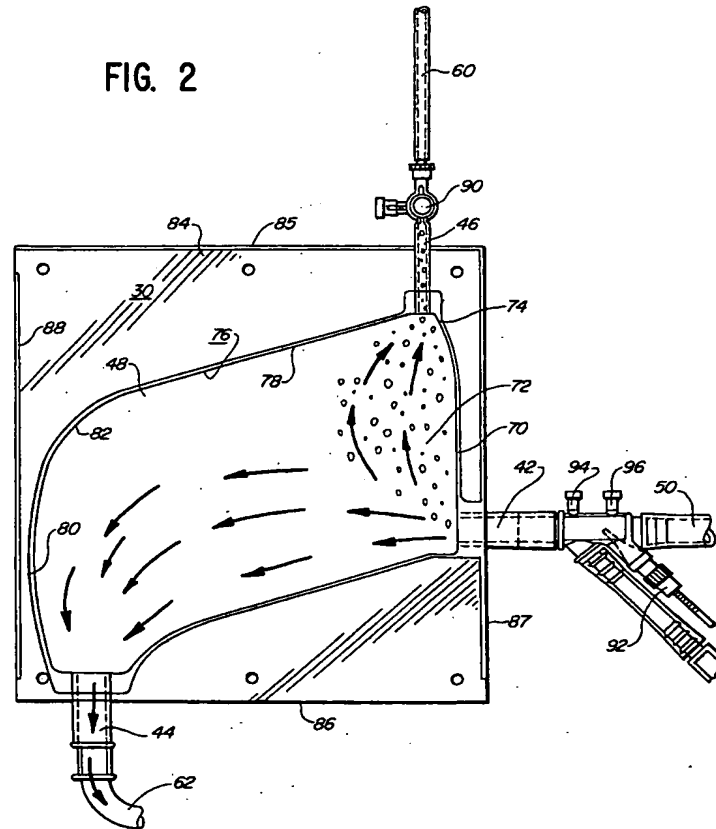
Claims 1, 3, 4, 10-12, 18, 19 and 65 are rejected under 35 U.S.C. §103(a) over U.S. Patent No. 4,643,713 to Viitala in view of U.S. Patent No. 4,976,708 to Oshiyama; claims 5-9 and 20-30 are rejected under 35 U.S.C. §103(a) over Viitala in view of Oshiyama and further in view of U.S. Patent No. 5,674,397 to Pawlak et al. (hereinafter "Pawlak"); and claims 13-17, 56-64 and 66 are rejected under 35 U.S.C. §103(a) over Viitala in view of Oshiyama and further in view of U.S. Patent No. 5,494,822 to Sadri. The rejections are respectfully traversed.

As discussed during the personal interview, none of the applied references teaches or would have rendered obvious a second chamber opening in one of the walls configured to allow at least gas to exit the chamber, the second chamber opening being located in a middle portion in a length of a top portion of the chamber, as recited in independent claims 1 and 56.

The Office Action acknowledges that Viitala does not clearly disclose a second chamber opening that is in a middle of the top portion, but asserts that it would have been obvious to move the second chamber opening to be located in a middle-portion of a top portion. The Office Action asserts that this modification "would represent a mere

rearrangement of parts that would not affect the functionality of the device, and instead would only represent a cosmetic design choice." These assertions are respectfully traversed.

Applicants respectfully assert that this modification is not a mere cosmetic design choice and that one of ordinary skill in the art would not have had a reason to modify Viitala as alleged in the Office Action. Moving the location of the vent opening in Viitala would result in a change of shape of the blood compartment of the reservoir. Viitala's shape is directly related to the operation of Viitala's reservoir, and any change thereof would impermissibly change the principle of operation of Viitala's reservoir. See, e.g., MPEP §2143.01.



Viitala discloses a specific positional relationship between the vent opening 46, the inlet 42 and the outlet 44 (the alleged second, first and third chamber openings, respectively).

The inlet end 70, the side wall, between the vent opening 46 and the inlet 42, must be at a

sharp right angle with the inlet 42. This configuration provides a sharp decrease in the velocity of the blood entering the inlet 42 resulting from the blood's rapid expansion and provides buoyancy to air in the blood so that air bubbles can rise to the top of the container to be vented through the vent opening 46. See, e.g., Viitala, at col. 3, lines 17-31. Also, Viitala discloses that the vent opening 46 is diagonally spaced as far as possible from outlet 44 and that the vent opening 46 and the inlet 42 are spaced as far from each other as possible at the inlet end 70. See, e.g., col. 3, lines 43-56. Modifying Viitala so that the vent opening 46 is in the center of the top of the reservoir would materially change the shape of the reservoir because at least 1) the inlet end 70 would no longer be at a sharp right angle with the inlet 42; and 2) the vent opening 46 would not be diagonally spaced as far as possible from the outlet 44.

Viitala discloses that the shape of the blood compartment functions "as an inhibiting shape to eddies and swirls in the blood which can trap air bubbles and allows for easy and complete drainage of the blood at the end of a surgical procedure." See, e.g., Viitala at col. 4, lines 45-53. The reservoir's shape results in "the velocity of the blood flow [being] kept as low as possible in order to give the blood a long time for blood release." See, e.g., col. 4, lines 35-40. Changing the shape of Viitala's reservoir by moving the location of the vent opening 46 of Viitala would thus impermissibly change the principle of operation of Viitala. Accordingly, one of ordinary skill in the art would not have had any reason to modify the location of the vent opening 46 of Viitala.

Oshiyama, Pawlak and Sadri do not remedy Viitala's deficiencies.

For at least these reasons, independent claims 1 and 56 are patentable over the applied references. Claims 3-30 and 57-66, which respectively depend from claims 1 and 56, are also patentable over the applied references, for at least the reasons discussed above, as well as for the additional features they recite.

For example, as agreed during the personal interview, none of the applied references teaches the features of claim 5. Also, as discussed during the personal interview, none of the applied references teaches or would have rendered obvious a first chamber opening that is located in the bottom portion of the chamber, as recited in claims 65 and 66. One of ordinary skill in the art would not have had any reason to modify the location of the inlet 42 of Viitala, the alleged first chamber opening, to result in this configuration. In addition to the relationship between the inlet 42, the outlet 44 and the vent opening 46 discussed above, Viitala discloses that the axis of the inlet 42 is perpendicular to the axis of the outlet 44 and the axis of the vent opening 46 is parallel to the axis of the outlet 44 because it enables the lines to be kept as short as possible and also provides effective air venting. See, e.g., Viitala, col. 3, lines 50-56. Moving the inlet 44 so that it is at the bottom portion of the chamber with the outlet 44 would result in the axis of the outlet 44 being parallel to the axis of the inlet 42. Accordingly, this modification would also impermissibly change the principle of operation of Viitala.

Withdrawal of the rejections is thus respectfully requested.

## **II. Rejoinder of Withdrawn Claims**

Applicants respectfully request rejoinder of withdrawn claims 31-55, upon the allowance of at least independent claim 1. Independent claim 31 includes features similar to those recited in independent claim 1. Thus, upon allowance of claim 1, rejoinder and allowance of claim 31, and the claims depending therefrom, are respectfully requested. See MPEP §821.04.

## **III. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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